

Montgomery County Ethics Commission Guidance on Attendance at Holiday Parties and Other Celebrations

The Ethics Commission received an inquiry as to the propriety of County officials', including both elected officials and other County employees, attendance at holiday parties and other events sponsored by persons with business before the County. In this context, the Ethics Commission issues this general guidance reminding employees of their obligations under the Public Ethics Law as regards gifts, including attendance at parties and events. An employee subject to the Public Ethics Law may ask the Commission for an advisory opinion on the application of the ethics law to that employee. (See §19A-7 of the Public Ethics Law.)

The Public Ethics Law at §19A-16(c) prohibits employees from accepting gifts from persons who do business with, are regulated by, or lobby the employee's agency or who otherwise have economic interests (different from those of the general public) that the employee may substantially affect in performing his or her duties.¹ The restriction applies to elected officials as well as other County employees.

A gift is defined at § 19A-4(h) as a transfer of anything of economic value, regardless of form, without an exchange of consideration of at least equal value. An invitation to an event or party is an offer of a gift, as attendance at the event or party has economic value. The economic value of attendance at a party or event sponsored by a particular person or entity will in most instances be the cost on a per person basis of the party or event.

At § 19A-16(d) there are specific but very limited exceptions to the gift restrictions.² Under paragraph 19A-16(d)(1), the gift restriction does not apply to "meals and

¹ A public employee must not knowingly accept a direct or indirect gift from any individual or organization that the public employee knows or reasonably should know:

- (1) is registered, or must register, as a lobbyist on a matter that is or could be considered by the County agency with which the public employee is affiliated;
- (2) does business with the County agency with which the public employee is affiliated;
- (3) owns or operates a business that is regulated by the County agency with which the public employee is affiliated; or
- (4) has an identifiable economic interest that is different from that of the general public, which the public employee may substantially affect in performing the public employee's official duties.

² (d) Subsection (c) does not apply to:

- (1) meals and beverages which do not exceed \$50 from the same source in any calendar year;
- (2) ceremonial gifts or awards with a resale value of \$100 or less, if the gift or award commemorates an event or achievement associated with the public employee.

beverages which do not exceed \$50 from the same source in any calendar year.” This exception for food and drink would extend to the refreshments served at a party or other celebration.

Where food is served *a la carte*, such as at a restaurant, valuation of the benefit conferred is readily ascertainable from a bill associated with individual customers. In determining the value of food and drink served at a party or other celebration, the Ethics Commission would normally look to the per capita cost of attendance. In the case of a party or reception, the calculation of the per capita cost of “meals and beverages” for purposes of the \$50 limitation should include all expenses associated with the event, such as incidental entertainment and facility rental.³ Attendance at a catered party where the refreshments available exceed \$50 in value on a per capita basis is not made acceptable by an employee’s consumption of items valued at \$50 or less or attendance without

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- (3) items of personal property, other than cash, worth less than \$10;
 - (4) reasonable expenses for food, travel, lodging, and scheduled entertainment of the public employee, given in return for the public employee’s participation in a panel or speaking at a meeting;
 - (5) gifts to an elected official, or that official’s designee who is assigned to represent the official at an event included in this paragraph, if the gift:
 - (A) is a courtesy extended to the office; and
 - (B) consists of tickets or free admission for the employee and one guest to attend a charitable, cultural, civic, labor, trade, sports, or political event, including meals and beverages served at the event;
 - (6) any item that is solely informational or of an advertising nature, including a book, report, periodical, or pamphlet, if the resale value of the item is \$25 or less;
 - (7) gifts from a relative;
 - (8) honoraria or awards for achievement; or
 - (9) a specific gift or class of gifts which the Commission exempts from this Section after finding in writing that accepting the gift or class of gifts is not detrimental to the impartial conduct of the business of a County agency.

³ Frequently at parties, receptions or other celebrations there are incidental costs for facility rental, entertainment and similar expenses. The terms of the exception in paragraph 19A-16(d)(1) do not extend to the conferring of the incidental costs of sponsoring a party or reception. However, section 19A-16(d)(9) of the Public Ethics Law authorizes the Ethics Commission to determine in writing that accepting a particular gift or a class of gifts is not detrimental to the impartial conduct of the business of a County agency. Under this authority, the Ethics Commission concludes that accepting the conferral of the incidental benefits by attending an event does not violate the gift prohibition under circumstances where the per capita cost of the event including food and beverages **and** the incidental costs of the event do not exceed \$50 and where the benefits other than food and beverages are truly incidental and not a featured part of the event, such as featured entertainment.

consuming anything. Also, when entertainment is a featured part of the event, the gift prohibition bars attendance at the event unless the limited exception for elected officials at paragraph 19A-16(d)(5) or other exception applies.

The exception at paragraph 19A-16(d)(5) for invitations extended as a “courtesy of the office” to elected officials, permits the official or the official’s designee and a guest “to attend a charitable, cultural, civic, labor, sports, or political event, including meals and beverages served at the event.” This exception is limited to its terms, and does not permit acceptance of gifts of attendance at events like holiday parties or other events that do not meet the exception’s express terms. A private celebratory event that includes entertainment does not become a “cultural” event by virtue of the presence of the entertainment.

Questions or requests for advisory opinions may be referred to the Ethics Commission at 240-777-6670 or Ethics.Commission@montgomerycountymd.gov.

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